

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHWESTERN DIVISION**

United States of America,)	
)	
Plaintiff,)	ORDER ON DETERMINATION OF
)	FAIR MARKET VALUE
vs.)	
)	Case No. 4:06-cr-084
Andrew Blake Decoteau,)	
)	
Defendant.)	

Before the Court is the Government's "Motion for Determination of Fair Market Value of Snowmobile" filed on March 27, 2008. See Docket 41. The defendant, Andrew Decoteau, filed a response on April 3, 2008. See Docket 42.

On September 19, 2007, Decoteau was convicted of theft by an employee from a gaming establishment on Indian lands and sentenced to thirty-six months of probation. See Docket 40. The Court imposed a \$100.00 special assessment, ordered Decoteau to pay \$9,750.00 in restitution, and ordered that Decoteau "shall return to the Sky Dancer Casino the 2004 MXZ800 SkiDoo Snowmobile and trailer and shall receive a credit towards the restitution owed for the fair market value of the snowmobile." See Docket 40.

After the sentencing hearing, Decoteau requested and was allowed an opportunity to sell the snowmobile himself and apply the proceeds of the sale toward the restitution obligation. Decoteau did not sell the snowmobile, and it was stolen and sustained some damage before it ultimately ended up in the possession of the Sky Dancer Casino.

The Government and Decoteau jointly request that the Court determine the fair market value of the 2004 MXZ800 SkiDoo snowmobile to be \$4,195.00, which is the midpoint of the NADA book value range minus the cost to repair the damage. The Government and Decoteau further

request that \$4,195.00 be deducted from the outstanding criminal monetary penalty assessed against Decoteau on September 19, 2007.

The Government also requests that the Court enter an order requiring Decoteau to return the trailer to the Sky Dancer Casino. Decoteau resists the Government's request and contends that the trailer was stolen and that he cannot return something that does not have. The Court finds that Decoteau shall not be required to return the trailer.

The Court finds the fair market value of the 2004 MXZ800 SkiDoo snowmobile to be \$4,195.00. Accordingly, the Court **GRANTS** the Government's Motion for Determination of Fair Market Value (Docket 41) and **ORDERS** that \$4,195.00 be deducted from Decoteau's outstanding criminal monetary penalty assessed against him on September 19, 2007. The Government's request that Decoteau be ordered to return the snowmobile trailer is **DENIED**.

IT IS SO ORDERED.

Dated this 4th day of April, 2008.

/s/ Daniel L. Hovland

Daniel L. Hovland, Chief Judge
United States District Court